

IN THE MAGISTRATE COURT OF COBB COUNTY
STATE OF GEORGIA

32 Waddell Street, 3rd Floor
Public Safety Building
Marietta, GA 30090-9656

In order for your Petition to be processed immediately, please complete the following procedures before filing a **Personal Property Foreclosure** in Cobb County.

Prior to filing a Petition for a Personal Property Foreclosure you must comply with the procedures listed below;

1. Submit **three (3)** copies the Personal Property Foreclosure Summons by filling out the “Plaintiff and Party to be services” (Defendant) sections.
2. Submit **three (3)** copies of the contract or other agreement, etc. (**one** (1) copy for the file and **two** (2) copies attached to the Personal Property Foreclosure Summons).
3. Submit **three (3) copies [ONE with and Original Signature]** of the Affidavit for Foreclosure of Personal Property, by inserting the names and addresses of Plaintiff and Defendant on the designated lines. Also indicate by circling ☐ the appropriate answers requested in the Affidavit and the Person filing will be **sworn** in by the Deputy Clerk and sign as “**Affiant**”.
4. Complete the Plaintiff and Defendant sections on the Application and Writ of Possession and sign as **Plaintiff (Agent)**. Complete the “Marshall’s Greetings” section, by listing the items (INCLUDE ALL **SERIAL #’s AND MODEL #’s FOR EACH ITEM**) being foreclosed upon.
5. Please sign as **Plaintiff (Agent)** in the “Election of Option”. Be sure to **X** your choice.
6. Complete the **Plaintiff and Defendant** sections on the “Notice for Hearing” page.
7. The “Order”: Complete **Plaintiff & Defendant** sections and print (legibly) a **detailed list** of items (INCLUDE ALL **SERIAL #’s AND MODEL #’s FOR EACH ITEM**) that are being foreclosed upon.
8. Cost: Filing against one (1) person, fee is \$69.00. Add \$25.00 per each add’l person.

Your Petition will be returned or dismissed if the above procedures are not followed correctly.

Thank you,

Magistrate Court

**IN THE MAGISTRATE OF COBB COUNTY
STATE OF GEORGIA**

Plaintiff (Name & Address)

Civil Action No. _____

vs.

Defendant (Name & Address)

AFFIDAVIT FOR FORECLOSURE OF PERSONAL PROPERTY

Personally appears the undersigned who, on oath, says that he is (Plaintiff) (Agent) (Attorney at Law) for Plaintiff herein, and is authorized to make this Affidavit, and that the Defendant herein is indebted to said Plaintiff upon a (Mortgage) (Bill of Sale to Secure Debt) (Contract Retaining Title), and who, on oath, says that the original or a true copy of same, is hereto attached and made a part hereof, and said indebtedness is past due, and Defendant is either now a resident of said State and County or was a resident of said State and County at the date said instrument was executed, and this Affidavit is made for the purpose of foreclosing said writing.

Plaintiff prays for Judgement in the amount of \$ _____ (principal), \$ _____ (interest),
\$ _____ (attorney fee's) and \$ _____ (court cost).

Sworn to, subscribed and filed before me
This the _____ day of _____, 20 ____.

Affiant

Clerk / Deputy

Telephone Number

**IN THE MAGISTRATE OF COBB COUNTY
STATE OF GEORGIA**

Plaintiff,

vs.

Civil Action No. _____

Defendant

APPLICATION AND WRIT OF POSSESSION

The above and foregoing case having come (for answer of the defendant) or (for a hearing) on the ____ day of _____, 20____, application is hereby made to the Court for the issuance to the Plaintiff of a Writ of Possession as provided by law.

This ____ day of _____, 20____.

Plaintiff (Agent)

**TO: THE MARSHALL OF SAID COURT OR HIS LAWFUL DEPUTIES AND
TO ALL AND SINGULAR THE SHERIFFS OF SAID STATE OR THEIR
LAWFUL DEPUTIES AND TO ALL LAWFUL CONSTABLES OF SAID STATE:**

GREETINGS:

WHEREAS, pursuant to O.C.G.A 44-14-230 thru 44-14-241, as amended, the Plaintiff has been adjudged entitled to recover from the Defendant the possession of certain personal property, the description and location of which is as follows:

ORDER

The above and foregoing have been read and considered as by law provided, it is hereby **ORDERED AND ADJUDGED** that a Writ of Possession issue.

Therefore, you are hereby ordered to levy the aforesaid personal property at the option of the Plaintiff to either surrender said property to the Plaintiff in retention or disposition, or advertise and sell same as in the case of levy and sale under execution as by law provided.

So **ORDERED** this the ____ day of _____, 20____.

Judge, Magistrate Court of Cobb County

ELECTION OF OPTION

(Option desired must be initialed in the space provided below)

Pursuant to O.C.G.A. 44-14-236, as amended, the undersigned Plaintiff, Agent for Plaintiff, or Attorney for Plaintiff in the above action hereby directs that the property described in the within and foregoing Writ of Possession be:

☐ Surrendered to Plaintiff for retention of disposition as provided by law.

☐ Advertised and sold as in the case of levy and sale under execution as provided by law.

This ____ day of _____, 20____.

Plaintiff/Agent

STATE OF GEORGIA, COBB COUNTY

Diligent search made and the property specified in the within Writ of Possession not found to be in Cobb County, State of Georgia.

This ____ day of _____, 20____.

Deputy Sheriff

STATE OF GEORGIA, COBB COUNTY

I have this day executed the within Writ of Possession by levying upon and seizing the following described property of Defendant, to wit:

_____.

Levied at: _____

This ____ day of _____, 20____.

Deputy Sheriff

STATE OF GEORGIA, COBB COUNTY

I have this day turned over to Plaintiff the property specified in the within Writ of Possession pursuant to the election of Plaintiff as authorized by O.C.G.A. 44-14-236, as amended.

This ____ day of _____, 20____.

Deputy Sheriff

**IN THE MAGISTRATE OF COBB COUNTY
STATE OF GEORGIA**

Plaintiff,

vs.

Civil Action _____

Defendant

**NOTICE FOR HEARING
FORECLOSURE OF PERSONAL PROPERTY**

A request having been made for a hearing on the facts in the above styled case;

This case has been set for a hearing on the _____ day of _____,
20____, at _____ (a.m.) (p.m.), courtroom "H", 3rd floor of the Public Safety Building,
Marietta, Georgia.

This _____ day of _____, 20____.

Deputy Clerk
Magistrate Court

**IN THE MAGISTRATE COURT OF COBB COUNTY
STATE OF GEORGIA**

Civil Action No. _____

Attorney or Plaintiff's Name & Address

Plaintiff

VS

Name & Address of Party to be Served:

Defendant

PERSONAL PROPERTY FORECLOSURE SUMMONS

TO THE ABOVE NAMED DEFENDANT:

The Defendant _____ herein is/are hereby commanded and required personally or by attorney to file with the Clerk of the Magistrate Court of Cobb County, Public Safety Bldg., 32 Waddell Street, Marietta, GA 30090-9656 within seven days from the date of service of within Affidavit and summons, or on the first business day thereafter if the seventh day falls on a Saturday, a Sunday, or a legal holiday, then and there to answer said affidavit in writing or orally. If the defendant fails to answer on or before the seventh day from the date of service, the defendant may reopen the default as a matter of right by making an answer within seven days after the date of the default notwithstanding the provision of Code Section 9-11-55 of the Official Code of Georgia Annotated. If the seventh day is a Saturday, a Sunday, or a legal holiday, the answer may be made on the next day which is not a Saturday, a Sunday, or a legal holiday. The last possible date on which the defendant may answer is the _____ day of _____, 20____. If answer is not so made, a writ of possession shall issue against you as by law provided, pursuant to plaintiff's affidavit.

Witness the Honorable Judges of said Court,

This _____ day of _____, 20____

Clerk, Magistrate Court of Cobb County

By _____
Deputy Clerk

SHERIFF'S ENTRY OF SERVICE

PERSONAL

☐ I have this day served the defendant _____ personally with a copy of the within action and summons.

NOTORIOUS

☐ I have this day served the defendant _____ by leaving a copy of the action and summons at his most notorious place of abode in this County.

☐ Delivered same into hands of _____ described as follows: age, about _____ years; weight, about _____ pounds; height, about _____ feet and _____ inches, domiciled at the residence of defendant.

CORPORATION

☐ Served the defendant _____ a corporation by leaving a copy of the within action and summons with _____ in charge of the office and place of doing business of said Corporation in this County.

TACK & MAIL

☐ I have this day served the above affidavit and summons on the defendant(s) by posting a copy of the same to the door of the premises designated in said affidavit, and on the same day of such posting by depositing a true copy of same in the United States Mail, First Class in an envelope properly addressed to the defendant(s) at the address shown in said summons, with adequate postage affixed thereon containing notice to the defendants(s) to answer said summons at the place stated in the summons.

NON EST

☐ Diligent search made and defendant _____ not to be found in the jurisdiction of this Court.

This _____ day of _____, 20____.

Deputy

**IN THE MAGISTRATE COURT OF COBB COUNTY
STATE OF GEORGIA**

Plaintiff,

vs.

Civil Action _____

Defendant.

ORDER

A writ of possession having been issued against the defendant for personal property to be foreclosed upon, it is:

ORDERED that the defendant or the party in possession of the property specified in that writ of possession be and that person is hereby directed to turn over to the sheriff, marshal, or constable of Cobb County or his lawful deputies, or to any sheriff, marshal, or constable of this state or their lawful deputies, the following described personal

property: _____

instanter, or advise said officer of the location of the property if same is not in defendant's possession.

SO ORDERED, this _____ day of _____, 20____.

Judge, Magistrate Court of Cobb County